

PUBLIC ACCOMMODATIONS 37.111.101

Subchapter 1

Hotels, Motels, Tourist Homes, Retirement Homes, Rooming houses and Boardinghouses

37.111.101 DEFINITIONS In addition to those definitions contained in 50-51-102, MCA, the following definitions apply to this subchapter:

(1) "Bedding" means mattresses, box springs, mattress covers, mattress pads, sheets, pillow slips, pillows, pillow covers, blankets, comforters, quilts and bedspreads.

(2) "Building authority" means the building codes bureau, Montana department of labor and industry, or a local government building inspector enforcing a local building code enforcement program certified by the department of labor and industry.

(3) "Department" means the department of public health and human services.

(4) "Establishment" means a hotel, motel, tourist home, rooming house or retirement home.

(5) "Fire authority" means the state fire marshal or his authorized agent.

(6) "Fixtures" means a shower, bathtub, toilet, toilet seat, urinal, lavatory, kitchen sink, janitor and custodial sink, utensil sink and all exposed plumbing integral to them.

(7) "Floors" means sub-flooring and floor coverings of all rooms including stairways, hallways, and lobbies.

(8) "Furnishings" means cups, glasses, pitchers, utensils, draperies, curtains, blinds, light fixtures, lamps and lamp shades, chairs, tables, desks, shelves, books, magazines, bookcases, dressers, bedsteads, mattress springs other than box springs, towels, wash cloths, soap, toilet tissue, radios, television sets, coffee makers, water heaters, pictures, mirrors, cabinets, closets and refrigerators.

(9) "Guest" means each occupant of any unit of an establishment. (10) "License" means a written instrument issued by the department authorizing the operation of an establishment. (11) "Local health authority" means a local health officer, local sanitarian, or any other person authorized by the department.

(12) "Sanitarian" means the person who is qualified under Title 37, chapter 40, part 3, MCA, and represents the health officer.

(13) "Sleeping accommodation" means the provision of sleeping quarters and linen service or housekeeping service where the linen service and housekeeping service are provided by management or by the residents under the direct supervision of management.

(History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 02 and 03 reserved

37.111.104 PRECONSTRUCTION REVIEW (1) Before construction commences, plans for construction of a new establishment or for an addition to or an alteration of an existing establishment must be submitted to the department or local health authority for review and approval. Plans must include the following:

(a) location and detail of storage rooms used for extra bedding and furnishings;

(b) location and detail of janitorial facilities;

(c) specifications for the water supply to serve the establishment unless the water supply has been previously approved by the department;

(d) specifications for the sewage treatment and disposal system to serve the establishment unless the sewage treatment and disposal system has been previously approved by the department;

(e) location and detail of laundry facilities including description of equipment, floor and wall finish material, and a flow chart indicating the route of laundry through sorting, washing, drying, ironing, folding and storage;

(f) specifications for a swimming or spa facility to serve the establishment unless the swimming or spa facility has been previously approved by the department;

(g) name of department-approved sanitary landfill which will receive solid waste from the establishment;

(h) specifications for a food service to serve the establishment unless the food service has been previously approved by the department;

(i) evidence of approval by the building authority;

(j) evidence of approval by the fire authority; and

(k) any other information requested by the department or the local health authority.

(2) Construction may not commence until all plans required by (1) of this rule have been approved by the department or local health authority. Construction must be in accordance with the plans as approved unless permission is granted by the department or local health authority to make changes.

(3) Approval will be granted for a period not to exceed 3 years, after which, if construction has not been completed, plans must again be submitted to the department or local health authority for re-evaluation.

(History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.105 EXISTING BUILDING: CHANGE OF USE (1) An existing building may not be used as an establishment and the use of one type of establishment may not change to another type of establishment without the prior approval of the department or local health authority.

(a) When a proposal to use an existing building as an establishment or to change the use from one type of establishment to another involves structural modification, plans meeting the requirements of (1) of ARM 37.111.104 must be submitted to the department or local health authority for review and approval. If no structural modification is involved, the department or local health authority may waive the requirement for submission of plans if:

(i) an inspection by the department or local health authority indicates that the proposed establishment meets the requirements of this subchapter, and

(ii) the building and fire authorities approve the building or waive approval.

(History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.106 LICENSURE, RENEWAL AND INSPECTION (1) Upon notification by the department that an application and fee have been received for a license for a previously unlicensed establishment, the local health officer, local health department sanitarian or sanitarian-in-training shall make a precensuring inspection to determine compliance with the requirements of this subchapter.

(2) The local health officer, or a sanitarian or sanitarian-in-training employed by or contracted with the local board of health must inspect each licensed establishment within the jurisdiction of the local board of health to determine compliance with this subchapter at least once in every 12 months, unless that schedule is modified by signed agreement with the department.

(3) If the establishment is in compliance with this subchapter and the department does not receive notification of non-compliance from the building authority or fire authority, a license will be issued or renewed.

(History: Sec. 50-51-103 and 50-51-303, MCA; IMP, Sec. 50-51-103, 50-51-301 and 50-51-303, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1994 MAR p. 2941, Eff. 11/11/94; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.107 PHYSICAL REQUIREMENTS (1) An establishment must comply with the following physical requirements: (a) In addition to the requirements of this subchapter, compliance with the state building code and fire code is required. (b) At least one storage room sufficient in size for the storage of extra bedding and furnishings must be provided.

(c) Adequate and convenient janitorial facilities including a sink and storage area for equipment and chemicals must be provided.

(d) All rooms must be provided with at least 10 foot-candles of light.

(e) Floors and walls in toilet and bathing rooms, laundries, janitorial closets, and similar rooms subject to large amounts of moisture must be smooth and non-absorbent.

(f) Floor and wall-mounted furnishings must be easily moved to allow for cleaning or mounted in such a manner as to allow for cleaning around and under such furnishings.

(g) Bathing facilities must be provided with anti-slip surfaces.

(History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 08 through 14 reserved

37.111.115 WATER SUPPLY SYSTEM (1) The department hereby adopts and incorporates by reference ARM 17.38.207, stating maximum microbiological contaminant levels for public water supplies, and the following department of environmental quality publications setting construction, operation, and maintenance standards for spring, wells, and cisterns, respectively:

(a) Circular #11, "Springs";

(b) Circular #84-11, "Minimum Design Standards for Small Water Systems";

(c) Circular #17, "Cisterns for Water Supplies". Copies of ARM 17.38.207 and Circulars #11, #84-11, and #17 may be obtained from the Department of Public Health and Human Services, Health Policy and Services Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) In order to ensure an adequate and potable supply of water, an establishment must either:

(a) connect to a water supply system meeting the requirements of ARM Title 17, chapter 38, subchapters 1, 2, and 5; or

(b) if the establishment is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including guests, staff, and residents; and an adequate public water supply system is not accessible; utilize a non-public system:

(i) whose construction and use meet those standards set in department of environmental quality circular #84-11; or

(ii) if construction of the establishment was commenced on or after June 28, 1985, which is designed by an engineer registered in Montana and determined by the department or the local health authority to provide assurance of an adequate and potable water supply equivalent to that in circular #84-11; or

(iii) if construction of the establishment was commenced prior to June 28, 1985, and utilizes a spring or cistern, which is operated and maintained in accordance with the standards set in either department of environmental quality circular #11 (for a spring) or circular #17 (for a cistern), whichever is applicable.

(3) If a non-public water supply system is used in accordance with (2)(b) above, an establishment must submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of public water supplies in order to determine

that the water does not exceed the maximum microbiological contaminant levels stated in ARM 17.38.207, incorporated by reference in (1) above.

(4) An establishment must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 17.38.207, as incorporated by reference in (1) of this rule, or

(b) does not have the capacity to provide water adequate in quantity for drinking, cooking, personal hygiene, laundry, and water-carried waste disposal.

(5) Ice must be:

(a) obtained from a licensed supplier if it is not made from the establishment's water supply; and

(b) manufactured, stored, handled, transported and served in a manner which is approved by the department or local health authority as preventing contamination of the ice, and which meets the following specific standards:

(i) Ice must be stored in an automatic dispenser if:

(A) construction of the establishment was commenced on or after June 28, 1985, and dispensing of the ice is not under the direct control of the establishment's management; or

(B) in an establishment whose construction commenced prior to June 28, 1985, and in which dispensing of ice is not under the direct control of the establishment's management, the ice storage equipment fails and is replaced.

(ii) Where open bin ice storage is provided, an ice scoop must be readily available for use by guests or the management and stored either inside the bin or in a closed container protected from contamination.

(6) Ice storage bins may not be connected directly to any trap, drain, receptacle sink or sewer which discharges waste or to any other source of contamination.

(7) Handsinks and bathing facilities must be provided with water at a temperature of at least 100°F and not more than 120°F.

(History: Sec. 50-51-103, MCA; IMP, Sec. 50-51-103, MCA; NEW, 1982 MAR p. 1049, Eff. 5/14/82; AMD, 1985 MAR p. 779, Eff. 6/28/85; TRANS, from DHES, 2001 MAR p. 2425.)